

## **Legislative and Funding Policy Committee February 7, 2008, 4:00 p.m.**

Sierra Nevada College  
999 Lake Tahoe Boulevard, (TCEF – Room 119)  
Incline Village, NV

### **1. Call to Order**

Roll call

Members:    Sig Rogich – Present  
                 Kate Dargan – Present  
                 Bud Hicks – Present  
                 Ron McIntyre – Present  
                 John Pickett - Present  
                 John Upton – Present (arrived 4:30)  
                 Patrick Wright – Present (arrived 5:30)

Legal:         Robert Kilroy, NV – Present  
                 Christine Sproul, CA - Absent

Review and approval of minutes – **Action**

**Motion by Commissioner Hick:** Move to approve the Jan 14 minutes

**Second by K. Dargan**

**Vote -** Motion Carried with one abstain

Review of Agenda - **Discussion**

### **2. Consideration of the following Proposed Findings and associated Recommendations – Discussion/Action**

NOTE: All Proposed F&Rs are available at the Commission's website:

<http://resources.ca.gov/TahoeFireCommission/findings.html>

All F&Rs should fit under the three following categories, if not a fourth can be added. It was suggested that the committee could sort and consolidate F&Rs into the three categories, and forward just three F&Rs to the Commission.

Emergency Declaration

Funding

Regulatory/Governmental Authorities

**Emergency Declaration – V-043** (include V-002)

1. Commissioner Hicks Language (See below)
2. Priorities of Policy/funding/authorities for  
Life-----\  
Property ----- Fire  
Environment /
3. Measures / Metrics of Fire Mitigations  
Add “Significant and Unique”

**Funding – V-003** (Include V-044)

Finding:        Need for X \$  
                    Need for ‘X’ Stuff???

Recommendation: Local – Private  
                          Public  
                          State  
                          Federal

**Regulatory Authorities – V-034** (Include V-016, V-018, V-019)

Finding:        Current ‘+’s of fire mitigations are...  
                    ‘-’s of fire mitigations are...

Recommendations:

1. Create efficient Regulations Process for CA/NV
2. Incorporation “Fire focused” considerations for environmental Regs  
Decision-making (Public Safety, Environment “+” of fuels  
management, CEQA/NEPA Guidance Documents)

**2a. F&R V-043 - EMERGENCY DECLARATION - Discussion/Action**

**Discussion** - Everything can be lumped under the Emergency Declaration (ED), the concern is that a lot of good things under Funding and Regulatory authority could be thrown out with the ED. And that the ED may only last 2-3 years while funding and Regulatory/Government Authority may go on for an extended length of time.

Funding is also an emergency component and can be under the ED. Under the ED there is an infusion of money; 1.5 million is needed to get things started by May 1.

Commissioner Hicks agrees that an ED is needed and that it may open the door to or expedite funding. He also asked that the following language be added as an additional F&R to V-043:

*Finding: The present condition of the forests in the Tahoe Basin pose a clear and present danger to life, property, and the environment.*

*Recommendation: It is recommended that all governmental agencies and authorities having jurisdiction within the Tahoe Basin take all possible actions to facilitate the substantial reduction of fuel from the forests within the Basin as quickly as possible.*

The language was chosen carefully to identify the “clear and present danger”, and to help justify the ED. The current language in V-043 “without sacrificing necessary environmental protections” was also carefully chosen. It was viewed that the Commission as a whole supports the idea of an ED, but there are limits to the amount of play with the current environmental guidelines they would be comfortable with, and to be clear to the public and the two Governors.

### **Other points discussed**

- We want to be careful that the environmental regulation do not trump fire protection, and that the priorities are, and in the following order, “Protection of Life, Property and the Environment”. The suggestion was made that the priorities be added to the preamble language as well as other F&Rs.
- Environmental protection needs to be looked at in the light of fire danger and fire danger reduction, because that is a risk to the environment as much as public safety.
- CEQA and NEPA needs to identify the positive mitigations of cumulative impacts in analysis for fire protection, public safety, or the return of natural fire in the environment. CEQA looks at adverse impact of a project, when a significant environmental impact is identified that we can not mitigate, there is a provision of over riding significance. There may be a negative impact to what we are doing, BUT there is a significant benefit to the public. There was a suggestion to validate the consideration of fire in every decision made. One way to do this is to make changes to CEQA to include fire.

### **Public Comment**

- There was an effort to integrate CEQA and NEPA in the Compact in regard to public safety.
- Must keep in mind that the Primary threat to life, safety and property is not the forest; it is the structures themselves (Roofs, siding, condition of the property) and secondly the lack of Defensible space.
- Need to assess what are the measures to protect life and property and what we need to do to keep the focus from shifting away from those priorities because of funding.

- This is not an either or, when it comes to roofs, siding and defensible space; it is not about doing fuels management at the expense of other issues. All issues need to be tracked at the same time. There needs to be a message to the public about their responsibility and their homeownership responsibility. And a message to citizens, regulators, public and policy makers, that the Commission will not push an aggressive fuels management agenda at the expense of everything else.
- The bases of the emergency is the preservation of a pristine lake in a confined basin where we all live, and the basin is not healthy, causing a clear and present danger to the environmental jewel we have in the basin. For an Emergency Declaration, we have to justify why this is different than any other mountains area in California and Nevada.

**Motion** – Commissioner Hicks moved to formalize the Emergency Declaration recommendation to the Governors of California and Nevada; and talk about language in a subsequent motion.

**Motion Second**

**Discussion** – Commissioners Dargatzis to revise V-043 and incorporate the language proposed by Commissioner Hicks. Some of the recommendations to include the priorities, and the way to measure success (duration of need); include the language in the finding section of “significant and unique” as well as “clear and present danger”.

**Vote - Motion Carried**

**2b. F&R V-002 - CONTINUITY PLAN: Discussion/Action**

**Discussion** – We are talking about having a sub-committee (an ongoing entity) of the Commission that would report to the two Governors annually to make sure that all our approved recommendations are carried out.

**Motion** - Co-chair Rogich asked for a motion that V-002 be folded into V-043

**Member so moved and second**

**Vote** – Motion Carried

**Public comments** – none

**Vote retaken** – Motion Carried

**2c. F&R V-003 - INADEQUATE FUNDING: Discussion/Action**

Suggested that this be merged with other funding F&Rs

**Motion by Co-chair Rogich:** To approve V-003 as a sub-topic

**Discussion** – Suggestion to merge V-003 with one J. Upton was working on.

**Motion Second**

**Public Comment** – None

**Vote** – Motion Carried

**2d. F&R V-044 - INADEQUATE FUNDING: Discussion/Action**

**Motion** - Co-chair Dargan moved that V-044 be merged with V-003 as part of the master funding F&R.

**Motion second**

**Public Comment** – None

**Vote** – Motion Carried

**2e. F&R V-016 - “FOREST MANAGEMENT: Discussion/Action**

**Discussion** - Commissioner Hicks reported that the Wildland Fuels Committee adopted recommendation #1 of V-016. The legislative Funding Policy Committee is reviewing recommendation/article #s 2, 3, and 4 of V-016

Recommendation 2 was to open the compact, explicitly to make fuel reduction and restoration of forest health in the basin top priorities for TRPA. When TRPA was formed forest health and the threat of catastrophic fire was not an issue, and the word fire is not even found in the compact. The compact does direct the TRPA to adopt conservation plans. A conservation plan for the forest should be a top priority. Article 3 is basically the same, that the Governors recommend to the TRPA adopt and implement such a plan. The 4<sup>th</sup> recommendation is for the congressional delegation support a clarifying statute for the basin; a conservation plan be adopted and a restoration plan be implemented.

The regional plan is required to have five elements, one of those being a conservation plan. TRPA currently has a conservation plan that has forest health as one of the vegetative thresholds. In January the TRPA board adopted a fuel reduction forest restoration plan. A new role in the F&R for TRPA is that of implementation; TRPA is not interested in being a key implementer in the basin.

The 10 year plan is a broad strategy, and the thought is that TRPA should hold and maintain the plan, and be the planning coordinator for the implementation; a support role for the fire agencies in the basin. An annual review of the document should not change the plan/strategy but should build on what is already there, and track the progress and direction.

There is another F&R that has been submitted, but not yet assigned, V-061. This F&R would impose on TRPA the obligation to report to the two Governors annually on the following issues.

- Status on the implementation of the 10 year plan,
- Status of the effect of fuel reduction and forest restoration on the basin,
- Status of the effect of remedial vegetation restoration on areas of catastrophic fire in the basin,
- TRPA's status to increase public awareness on fire safety issues,

- Status of TRPA's compliance or failure to comply with fire prevention or public safety recommendations made by fire departments and fire protection districts.

TRPA duties as coordinator falls in with these items listed. They would have to coordinate them, or at least be involved.

An additional recommendation submitted (no number assigned yet) deals with committees over TRPA's funding, and having them aggressively pursue the questions above in the report.

El Dorado County Board of Supervisors to submit a F&R on Community Conservation Plans. This would join BMPs and Defensible Space.

**2f. F&R V-018 - "TRPA ORDINANCES: Discussion/Action**

Incorporate this F&R with V-016 and V-019 under Regulatory Authorities using number V-034

**2g. F&R V-019 - "TRPA BOARD COMPOSITION: Discussion/Action**

The Board has the authority to add a fire voice to their board. The Committee would like to see TRPA have fire technical advice, as long as TRPA doesn't get into the decision making and telling the fire services how to fight fires. But, at the same time, TRPA has the capacity to handle the process decision making, regulatory wise, and can raise revenue. They have regulatory authority, ability to generate fee revenues, a broad range of federal, state and local authority; and a representative board. The fire services have the fire expertise but not the regulatory authority. Rather than handing everything over to TRPA, would like a formal agreement between TRPA and the fire services for the technical input.

The Tahoe Area Chiefs had a meeting, and are working out their issues with Lahontan and TRPA. The chief are also submitting and F&R regarding partnering with TRPA.

**2h. F&R V-034 - MOU REVISIONS: Discussion/Action**

Each of the agencies has their own environmental regulations.  
LRWQCB – CEQA; USFS-NEPA; NV – TRPA

California and Nevada exist side by side relative to water quality, but have different standards. CA has stricter standards statutorily than Nevada. TRPA has the ability to take both state standards and adhere to them as minimum, They can choose to be stricter, but never less; and does so, on the Nevada side,

without any other agencies involvement in regard to water quality (NV delegated its authority to TRPA). In California, Lahontan preexisting to TRPA has equivalent standards as TRPA. TRPA may have one or two standards that are higher than Lahontan, and regarding fire TRPA and Lahontan standards are equivalent. On a project by project bases, and because the standards are equivalent, Lahontan has stepped aside and let TRPA manage the whole thing. There are a number of issues that each agency defers to the other, under a MOU, because they can handle it better and some projects that both will work on. In regard to permit streamlining there are at least three different areas that need permits, defensible space (Lahontan Waves permitting), fuel projects in adjacent communities (Lahontan negotiates permitting with TRPA), and large public lands fuels management projects (Lahontan still involved).

Since the Angora fire a lot the discussion has taken place and as stated in the policy paper presented at the second meeting that outlined concerns of the outdated MOU, and recognized that we have amended our plan including the Sierra Nevada Framework that provided direction and more environmental protection in certain area such as fuels.

Each agency (USFS, TRPA, Lahontan) are revisiting their MOUs with each other, not only in regulation, but operation.

### **3. Next Meeting**

- Would like progress report on the MOUs
- Language for Emergency Declaration
- Commissioner Hicks to work on merging 034, 016, 018, 019

### **4. Adjournment**

Nevada Legal Counsel Robert Kilroy pointed out the committee had public discussion on F&Rs V-016, V-018, V-019, and V-034 and a motion was made to merge them, but no action was taken.

**Motion** - To incorporate V-016, V-018, V-019 and V-034 under Regulatory Authorities using number V-034

**Public Comment** – None

**Vote** – Motion Carried

**Adjournment - Action**